

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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DATE FILED: 11/8/2021

ERIC S. COTTO,

Plaintiff,

-against-

FEDERAL NATIONAL MORTGAGE ASSOCIATION,

Defendant.

1:20-cv-6487-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

In July 2020, Plaintiff brought this action for trespass in the Supreme Court of the State of New York, County of Bronx, alleging that his residential property sustained water damage caused by a leak originating from a neighboring property that was owned by Defendant. [ECF No. 1]. Two weeks later, Defendant removed the action, invoking the Court's diversity jurisdiction. [ECF No. 1]. On September 2, 2020, Defendant requested a pre-motion conference to file a motion to dismiss on the grounds that Plaintiff failed to plead sufficient facts to support a claim upon which relief could be granted. [ECF No. 3]. Subsequently, we denied the request for a conference and directed the parties to proceed directly to briefing. [ECF No. 6]. Defendant filed its Motion to Dismiss, [ECF No. 7], and then Plaintiff filed a cross-motion for the case to be referred to the Court's mediation program, or alternatively, for leave to amend and for the case to be remanded to state court. [ECF No. 8].

The Court concluded that it had subject matter jurisdiction and that the case could proceed before this Court. [ECF No. 24]. The Court denied Plaintiff's cross-motion for an Order of Reference to the Court's Mediation Program and his cross-motion for remand. [ECF No. 24]. However, the Court granted Plaintiff leave to amend his complaint to add new

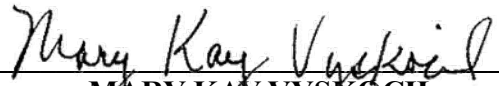
allegations. [ECF No. 24]. As such, Defendant's motion to dismiss was denied without prejudice as moot. [ECF No. 24].

The Court directed Plaintiff to file his Amended Complaint on or before October 14, 2021. [ECF No. 24]. To date, Plaintiff has not filed an Amended Complaint nor sought an extension of the deadline to file an Amended Complaint. Defendant now requests again a pre-motion conference in contemplation of a Motion to Dismiss. [ECF No. 25].

IT IS HEREBY ORDERED that Defendant's request for a pre-motion conference is DENIED. The parties may proceed directly to briefing: Defendant's Motion to Dismiss is due on or before December 3, 2021; Plaintiff's Opposition is due on or before January 4, 2022; and Defendant's Reply is due on or before January 18, 2022.

**SO ORDERED.**

**Date: November 8, 2021  
New York, NY**

  
**MARY KAY VYSKOCIL**  
**United States District Judge**